

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE: . Case No. 13-73481-bem  
. Chapter 7  
BLAIR B. CHINTELLA, .  
. 75 Spring Street SW  
Debtor. . Atlanta, Georgia 30303  
. .  
. March 4, 2014  
. . 2:55 p.m.

TRANSCRIPT OF HEARING ON COMCAST'S MOTION FOR RELIEF FROM  
STAY AND ANNULMENT, BEFORE THE HONORABLE BARBARA ELLIS-MONRO  
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

On behalf of Debtor: Blair B. Chintella, *pro se*  
On behalf of Comcast Cable Hawkins Parnell Thackston &  
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1 (Time Noted: 2:55 p.m.)

2 THE COURT CLERK: Your Honor, that brings us to  
3 the last matter from the 2:30 calendar, the case of Blair  
4 Chintella. We have Comcast's motion for relief from stay and  
5 annulment.

6 (Brief pause)

7 THE COURT: Counsel?

8 MR. ANDERSON: May it please the Court, my name is  
9 Carl Anderson, along with Michael Goldman. We represent  
10 Movant, Comcast Cable Communications Management, LLC.

11 We are here before the Court today on Comcast's  
12 motion for relief from the automatic stay, and for annulment.

13 We are here to answer essentially two questions,  
14 Your Honor: Whether Comcast's motion for attorneys' fees in  
15 the District Court is exempt under Section 362(b)(4), and if  
16 it's not exempt, whether the Court should grant relief from  
17 the stay, the Section 362 stay.

18 Comcast requested entry of an order confirming the  
19 automatic stay does not apply to its motion for attorneys'  
20 fees in the District Court, wherein, in the alternative,  
21 respectfully requested the Court enter an order annulling the  
22 stay or otherwise modifying or granting relief from the stay  
23 to the extent necessary to permit the sanctions motion, the  
24 attorneys' fees motion, to be adjudicated by the District  
25 Court.



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1 And Comcast moves pursuant to 11 U.S.C. 362(b)(4)  
2 for such relief.

3 We filed a motion for sanctions under 28 U.S.C.  
4 1927 in the District Court, as a result of the service of the  
5 three subpoenas on Comcast in a case where Comcast is a non-  
6 party.

7 And if it's all right with the Court, I did a  
8 short chronology which does not include everything on the  
9 docket in the District Court, but I thought it might help the  
10 Court keep things straight. If that's all right, may I  
11 approach and --

12 THE COURT: I assume the opposing counsel has seen  
13 that? And I will just say for everyone's edification, I have  
14 looked at the District Court docket, and so I --

15 MR. CHINTELLA: I'm sorry, you --

16 THE COURT: I have looked at the District Court  
17 docket.

18 MR. ANDERSON: Okay, so do --

19 THE COURT: I'd be happy to see that, but I have  
20 at least scrolled through it.

21 MR. ANDERSON: And the highlighted items are the  
22 items that were filed in the Bankruptcy Court.

23 The first subpoena was served in July of 2013,  
24 July 10th. Comcast responded.

25 Because of the information requested, Comcast has



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1 an obligation under 47 U.S.C. Section 551(c)(2)(B) and (H) to  
2 let subscribers know that certain information has been  
3 requested by another party, and to give them an opportunity  
4 to object.

5 And Comcast takes that duty very seriously, and  
6 has complied with that with regard to two out of the three  
7 subpoenas. I do not know whether the third subpoena served  
8 on July -- on August 8th they did that or not, because in the  
9 intervening time, the actual Plaintiff in the case had filed  
10 a motion for protective order and a motion to quash, and  
11 several other things, which Comcast sort of got sucked into.

12 During the process, there was a return date. We  
13 had contacted Mr. Chintella. And, Your Honor, I was not  
14 involved in the underlying case -- or the District Court  
15 case, Mr. Goldman was.

16 So, we contacted Mr. Chintella and told him that  
17 we would comply once we had gone through the necessary  
18 Statutory compliance regarding notification. Once we had  
19 done that, we'd produce the items he asked for, and we  
20 produced those on August 2nd. I believe the return date on  
21 the subpoena was July 31st.

22 We proceeded to do the same thing for the second  
23 subpoena, but in the interim, he filed a motion for contempt.  
24 He did not get a motion compelling us to produce anything,  
25 and our notice period with regard to the subscribers had not



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1 run in that case, and so we proceeded to basically say "we  
2 cannot produce this information without a court order," and  
3 he filed for contempt rather than ask for a court order  
4 asking us to produce it pursuant to the applicable Statute.

5           There was a third subpoena served, and, as I said,  
6 there was several motions for protective order and sanctions  
7 that went back and forth between the Plaintiff and Defendant,  
8 which I have not listed on here because that would just  
9 needlessly complicate things.

10           Essentially, the Court, Judge O'Kelley, issued an  
11 order in December saying that we were entirely justified in  
12 not responding to the subpoenas. And, as a result of that,  
13 we then filed a motion for attorneys' fees because this case  
14 ended up eating a lot more time than the normal search  
15 situation.

16           In the interim, between the date that the  
17 subpoenas were filed and the various motion practice on the  
18 protective orders and other issues, Mr. Chintella had filed  
19 for bankruptcy, Chapter 7.

20           We looked at the Court's order when it came out,  
21 which is docket number 100, that the Judge had addressed  
22 that, that he said it did not prevent him from ruling.

23           And so we proceeded. Because we proceeded, there  
24 was a gap in the Statute between Section -- or the Federal  
25 Rule 54 says that it does not apply to Section 1927 motions.



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1 However, the Local Rule does not have that same language, and  
2 so based on the fact that the Local Rule did not have the  
3 same language, we went ahead and filed so we would not  
4 necessarily lose our right to do so.

5 In light of the language from the Court that the  
6 Court could proceed, we filed. And believe that we were able  
7 to file under the exception. We took a look at a variety of  
8 cases, including the *Stano* case, the *Burr* case, and the  
9 *Alpern* case, all of which are cited in our papers. I can go  
10 through those if the Court would like.

11 THE COURT: I'm familiar with those cases.

12 MR. ANDERSON: Okay.

13 THE COURT: Thank you.

14 MR. ANDERSON: And, as a result of that, we  
15 proceeded. We offered Mr. Chintella an extension of time in  
16 which to respond if he believed that the stay applied. He  
17 was concerned about possibly waiving some rights, and went  
18 ahead and responded.

19 At that point, the District Court entered a new  
20 order, basically said that we would have to come to this  
21 Court and determine whether we were, in fact, exempt or that  
22 the stay applied, and where things stood there.

23 So the very next day, we filed a motion for relief  
24 from stay and annulment.

25 And I believe we filed on the 16th, and the Judge



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1 entered his order on the 15th, I think it was. Or he filed  
2 on the 16th and we entered out -- entered his order on the  
3 16th, we filed on the 17th, and then Mr. Chintella responded.

4 We believe that we do fall under the exception  
5 under the *Pastano* case and those cases that have analyzed the  
6 imposition of sanctions in ongoing court cases. I mean, the  
7 Bankruptcy Code in this case is not designed to protect a  
8 debtor from bad conduct in other litigation, and, as I said,  
9 we firmly believe that we're correct on that.

10 I would also mention, because we did not put it in  
11 our papers, that *Hadid v. Alhagalan* (ph) case, which is out  
12 of the Eastern District of Virginia, where they talk about  
13 motions for sanctions against a defendant-debtor, are not  
14 stayed based on 362(a). And courts have generally accepted  
15 this interpretation, and then it goes on to list *Alpern*,  
16 *Berg*, the *Martin v. Todd* case, and a variety of other cases.

17 And the cite to that case is 2000 U.S.D.C. Lexis  
18 2394. That is at asterisk 7.

19 THE COURT: All right.

20 MR. ANDERSON: I can walk through the facts, but  
21 it sounds like Your Honor is somewhat familiar with them.

22 THE COURT: I have read the authorities that you  
23 all have cited. I've looked at the papers. So I really want  
24 to hear from Mr. Chintella, but then I have a couple of  
25 questions.



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1 MR. ANDERSON: Okay, so you'd like to hear from  
2 Mr. Chintella?

3 THE COURT: Yes, please.

4 MR. ANDERSON: Okay.

5 THE COURT: Unless there's something you don't  
6 have in your papers that you really think I need to know.  
7 But I'm pretty familiar with what the argument is, and  
8 generally the time line for what happened.

9 MR. ANDERSON: All right, thank you, Your Honor.

10 MR. CHINTELLA: Good afternoon, Your Honor, my  
11 name is Blair Chintella. I'm here representing myself.

12 Just real quick, I wanted to clarify two things.

13 There has been some confusion in the District  
14 Court docket. This has been a fairly drawn out and long  
15 case, and some of the motions, as you're aware, may be  
16 confusing as having filed by the Plaintiff.

17 And in response to that, I have been confused  
18 somewhat and my pleadings haven't been exactly clear.

19 But, it's my understanding that the motion that  
20 they have filed only pertained to the August 8th subpoena.  
21 The motion that we filed -- that I filed on behalf of my  
22 client was for the July 25th subpoena.

23 There have been four subpoenas served on Comcast  
24 in this case, and I listed them in my paperwork. There is a  
25 7/10 subpoena, a 7/15 subpoena, a 7/25 subpoena, and a 8/8



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1 subpoena. Those are the service dates of the subpoenas.

2 So, the sanctions motion we filed only -- has  
3 attached to it the 7/25 subpoena, and the motion for  
4 protective order that was filed by AF Holdings only had  
5 attached to it the 8/8 subpoena.

6 So, I've had multiple conversations with an  
7 attorney named Monica Mosley, who I understand is a  
8 Pennsylvania attorney, and I have explained to her on the  
9 phone that it was our understanding that Plaintiff's motion  
10 only pertained to the 8/8 subpoena. So that's why we filed a  
11 motion for the 7/25 subpoena.

12 We were under an extremely tight deadline. We had  
13 two months of discovery. If you've read about this case, the  
14 substance of it, we're dealing with people who are hiding  
15 assets, a lot of shell companies. We tried to serve one of  
16 the people down in Florida, but the house is vacant, the  
17 water is shut off.

18 So we're trying to track down these people, so it  
19 was crucial to get this information in the case, to try and  
20 find out the addresses, so we can get a deposition, serve a  
21 subpoena on these players who are responsible for this huge  
22 case.

23 THE COURT: And you understand I'm not ruling on  
24 the sanctions motion?

25 MR. CHINTELLA: Sure, sure.



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1 THE COURT: All I'm concerned with is whether the  
2 1927 motion that was filed is within the 362(b)(4) exception.  
3 That's all I'm dealing with today.

4 So, while I appreciate that there may be confusion  
5 about what subpoena was being dealt with, --

6 MR. CHINTELLA: Right.

7 THE COURT: -- to the extent that the 1927 motion  
8 is heard at some point, Judge O'Kelley is going to hear that,  
9 not this Court.

10 MR. CHINTELLA: Right.

11 THE COURT: So, let's address the stay issue here,  
12 if you would, please.

13 MR. CHINTELLA: Right, right. I just -- if the  
14 relief is somehow connected with my intentions, that's the  
15 only reason I was mentioning that, because one of the factors  
16 that courts discuss is annulment of stay is bad faith of the  
17 debtor. So that's why I was discussing that, Your Honor.

18 But, you know, I do understand there are two  
19 issues. One is whether the stay even applies, or whether  
20 their motion is an exception to it, and whether annulment is  
21 warranted here.

22 On the first issue, you know, as we cite in our  
23 briefs, you know, the exception that they're seeking to use  
24 is for police and regulatory power.

25 And I'm going to start off by saying that, you



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1 know, exceptions are supposed to be narrowly construed, and  
2 the police or regulatory power in the cases we cite, you can  
3 see it's aimed at like the general health and welfare of the  
4 public at large.

5 So, you know, actions are injunctions under the  
6 Fair Labor Standards Act, are included in -- I don't need to  
7 repeat exactly what is written in the memorandum, but that's  
8 the general gist of our argument.

9 THE COURT: So the general gist of your argument  
10 is that the (b)(4) exception doesn't apply to preserving and  
11 protecting the judicial process from abusive litigation or  
12 sanctionable conduct? Is that the argument?

13 MR. CHINTELLA: No, Your Honor. I guess we would  
14 -- we're not -- I wouldn't sit here and say that that's not a  
15 public policy concern, I guess, or a way to -- you know,  
16 because the Statute is aimed at curbing or effectuating some  
17 policy, but so is everything else. Every other rule out  
18 there.

19 There are cases that, you know, we cited, where  
20 there is a law that has been violated, but the Court  
21 distinguishes that violation from one that is aimed at police  
22 and regulatory function of the Courts -- or, excuse me, of  
23 the exception, which goes broadly to general public welfare.

24 When you look at Section 28 U.S.C. 1927, you know,  
25 true, it does have ancillary effect of that, but the primary



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1 purpose, you know, is to give the party, you know,  
2 compensation, you know, for their work. It's strictly tied  
3 to the number of hours, the excess costs created by the  
4 action.

5 (Brief pause)

6 MR. CHINTELLA: Your Honor, and in the case that  
7 we -- I didn't get a chance to cite, you know, rushing to  
8 draft these things, is *Brock v. Rusco Industries, Inc.* It's  
9 an 11th Circuit case, 842 F. 2d 270.

10 And there, you know, it cites Congressional  
11 policy, and it gives an example. It says "consequently,  
12 Congress permitted a suit by the government 'to prevent or  
13 stop violation of fraud, environmental protection, consumer  
14 protection, safety, or similar police or regulatory laws.'"

15 So, here, the Secretary brought the suit to  
16 protect legitimate business from unfair competition and to  
17 force the federal law regarding minimum wage.

18 THE COURT: How does this --

19 MR. CHINTELLA: The Court in that case sought --  
20 the secretary sought damages, just an injunction.

21 THE COURT: All right. I did look at your  
22 pleading. I will say I didn't see that -- the argument that  
23 you're making to me today, which is that the primary purpose  
24 of this Statute is pecuniary as to the individual, and that  
25 this -- the sanctions motion is not the type of police and



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1 regulatory power that (b)(4) goes to.

2           So, if you have other cases you want to cite to me  
3 for that, I'm happy to look at them. But I will tell you  
4 that the question I really have, and I want you to address,  
5 is --

6           MR. CHINTELLA: Uh-huh.

7           THE COURT: -- if you look at the *Alpern* opinion,  
8 which is a Seventh Circuit opinion, or the *Berg* opinion,  
9 which is a Ninth Circuit opinion, which obviously isn't  
10 binding on this Court, but is persuasive authority.

11           Those deal with Rule 11 sanctions, deal with  
12 discovery sanctions. How do you distinguish the type of  
13 sanctions that are sought under 1927 from the Rule 11 or the  
14 discovery sanctions? Aren't they the same thing?

15           MR. CHINTELLA: I guess, no, I wouldn't argue that  
16 all sanctions are created equal. There are a variety of  
17 policies behind different types of sanctions. Now it's, you  
18 know, it's not really an issue in this case, but I would  
19 argue that even different types of sanctions under Rule 11  
20 might be treated differently for purposes of the exception.

21           And Rule 11 provides a variety of sanctions, you  
22 know, they can be customized, they can be monetary, they  
23 could be fine. You know, they could have been initiated by  
24 the Movant, or they could have been initiated *sua sponte*,  
25 which might change the effect under the exception.



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1           Whether it's really aimed at vindicating the  
2 Court's authority is significantly different than if it's  
3 just pecuniarily to compensate somebody, you know.

4           You know, sanctions under 1927, the only sanctions  
5 that can be imposed are payment of money to the moving party.  
6 You know, indirectly, every type of sanction is going to have  
7 some policy or reasoning behind it, and so I guess I would  
8 ask the Court to draw that distinction, you know, with  
9 Section 1927.

10           Other cases we cite -- or I cite in the brief, you  
11 know, even contempt sanctions under certain circumstances are  
12 stayed, or are not excepted from the automatic stay.

13           So, in those cases, you know, I cite, you can look  
14 at whether it's truly a police or regulatory matter, you  
15 know, public health, welfare, environmental protection, Fair  
16 Labor Standards Act, and those kinds of things, versus, you  
17 know, although it's a coercive sanction, you know, or a --  
18 you know, a contempt sanction to compensate, you know, courts  
19 have, you know, drawn that distinction even in the context of  
20 just under Rule 11 specifically.

21           THE COURT: Do you have cites for me in which  
22 courts discuss the different purposes of Rule 11 and  
23 distinguish them -- some that might be a (b)(4) action and  
24 some that might not?

25           (Brief pause)



1 MR. CHINTELLA: The only case we cite is the  
2 *Donovan* case, and that -- it's a Northern District of Georgia  
3 case, and that touches on just the broad -- how to interpret,  
4 essentially, police or regulatory powers. And that case  
5 cites a multitude of cases. That's 20 B.R. 997.

6 THE COURT: Okay.

7 MR. CHINTELLA: It's cites, you know, cases, you  
8 know, the CFTC is able to access a debtor's books. That was  
9 not -- or that was an exception to the stay. SEC trying to  
10 obtain an injunction, cites a Fifth Circuit case on page 1002  
11 of that case.

12 You know, honestly, I did spend a lot of time  
13 trying to research these issues, because, you know, it takes  
14 time away from, you know, trying to find work and  
15 rehabilitate. But, you know, there's not a lot of -- I  
16 didn't find a lot of case law out there drawing that  
17 distinction just in the context of Rule 11, but I did find  
18 cases, you know, drawing that distinction, I guess, as far as  
19 different types of sanctions, so it focuses more on the  
20 minute, you know, specific rule.

21 THE COURT: Which specific distinction are you  
22 speaking about, drawing what distinction?

23 MR. CHINTELLA: Oh, the *Jove* case is one. That  
24 case involves an order under Section 105. Footnote 4, the  
25 Court says "criminal contempt sanctions are punitive in





1 nature and are imposed to vindicate the authority of the  
2 Court. On the other hand, sanctions in civil contempt  
3 proceedings may be employed for either or both of two  
4 reasons, to coerce the defendant or to compensate.

5 And the last part was a paraphrase.

6 THE COURT: So, it's your contention that 1927  
7 sanctions are purely for compensation, they are not for  
8 coercive purposes? Is that the argument you're making?

9 MR. CHINTELLA: No. I believe that there is  
10 authority in this Circuit saying that, you know, there is a  
11 punitive aspect of those sanctions.

12 However, punitive, we would not -- or I would not  
13 equate with police and regulatory power. That's the  
14 distinction I would draw on that point, Your Honor.

15 THE COURT: Okay.

16 MR. CHINTELLA: You know, there's another case  
17 here.

18 (Brief pause)

19 MR. CHINTELLA: If it's all right, Your Honor, I'd  
20 like to -- I can continue searching, but maybe hear a  
21 response and then I can find that case for you.

22 THE COURT: Okay, that would be fine.

23 (Brief pause)

24 MR. ANDERSON: Your Honor, you said you might have  
25 some questions?



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1 THE COURT: That's really my big question: What  
2 do the cases you all have cited, I've looked at other  
3 Eleventh Circuit authority that discusses the nature of  
4 sanctions, including the *Amlong* case at 500 F. 3d 1230, in  
5 which, at footnote 1, the majority talks about the dissent  
6 having cited a case having to do with Rule 11 sanctions, and  
7 the majority then contrasts that with 1927 sanctions.

8 And what they said, and I think what I'm going to  
9 end up doing, is giving you folks a few days to give me  
10 additional briefs on the particular distinction that counsel  
11 is trying to draw. But I want to read to you where I'm  
12 coming from in terms of my analysis of the sanctions and why,  
13 at least unless you can show me some other authority, I don't  
14 see where there's a distinction that would take this outside  
15 of the (b)(4) scenario.

16 That footnote says: "While many of the same  
17 general principles apply to sanctions under Rule 11 and  
18 sanctions under 1927, Rule 11 and 1927 are distinct sources  
19 of authority. Rule 11 permits attorneys' fees for conduct  
20 which merely fails to meet a reasonableness standard in  
21 contrast to a court's inherent powers, which require a higher  
22 showing. It's clear that negligent conduct standing alone  
23 will not support a finding of bad faith under Section 1927.  
24 1927 is not a catch-all provision for sanction and  
25 objectionable conduct by counsel. For sanctions under 1927



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1 to be appropriate, something more than a lack of merit is  
2 required. The Statute was designed to sanction attorneys who  
3 willfully abuse the judicial process by conduct tantamount to  
4 bad faith. Bad faith is the touchstone. Section 1927 is not  
5 about mere negligence."

6 So, to me, that draws a distinction that says that  
7 1927 sanctions are even more strictly construed and are even  
8 -- go even more to protecting the judicial process, because  
9 they are akin to the inherent authority of the court, which,  
10 to me, says that they would absolutely be within the  
11 exception of (b)(4), which has been held by the Ninth Circuit  
12 and the Seventh Circuit to provide an exception to allow the  
13 courts to protect the judicial process against foul manner of  
14 litigation tactics that are detrimental to that process.

15 But, I want to give you the opportunity to respond  
16 to that, and cite me cases or make arguments that would  
17 indicate that that's an incorrect reading, because I did not  
18 see -- neither party cited, nor did I see, a case that  
19 directly addresses this issue. So, I do want you all to have  
20 a complete and full opportunity to make whatever arguments  
21 you want to make.

22 But that's really from reading what has been filed  
23 and from doing a little additional research. Where I think  
24 the issue is, is how is there really a principle distinction  
25 between 1927 and Rule 11, or Appellate Rule 38, or the other



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1 types of Rules where courts have found that (b)(4) does  
2 apply.

3 Now, that doesn't say that if, hypothetically, I  
4 say it's a (b)(4) exception, you can go back, Judge O'Kelley  
5 can enter whatever order he thinks is appropriate. That  
6 doesn't mean that that is then collectible, that money  
7 judgment, because (b)(4) also says that it's only as to other  
8 than money judgments.

9 And the Second Circuit and the Fifth Circuit have  
10 both confirmed that the Code says what it means, which is you  
11 can get the judgment, but you can't go any further than that  
12 without coming back to this Court.

13 So, if this is a (b)(4) exception, the motion  
14 could go forward. But any type of enforcement or collection  
15 action would have to come back to this Court and consider how  
16 that affects the bankruptcy case.

17 MR. ANDERSON: Your Honor, we were aware of that.

18 THE COURT: I'm just -- I want to set forth for  
19 everybody what I'm thinking, because I do want you all to go  
20 back in, say, about 10 days give me any relevant authority  
21 you think that addresses this particular issue.

22 And it may be that you come back and you tell me  
23 "we didn't really find cases that talk much about how they're  
24 different, how they're alike." But I want to give you --  
25 give particularly the Debtor the opportunity to fully brief



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1 the issue that I think is the one that matters.

2 And I've read the papers, I know all about the  
3 automatic stay being a breathing spell. It is clearly  
4 fundamental to bankruptcy, but in this particular case and  
5 this scenario, I think the issue is how or is there a way to  
6 distinguish 1927 sanctions from sanctions that Appellate  
7 Courts have already said are such that they fall within that  
8 exception.

9 MR. CHINTELLA: [indecipherable - not near  
10 microphone].

11 THE COURT: That's what you need to do, because  
12 the ones that I have looked at that deal with sanctions and  
13 protecting the judicial process, I'm not talking about EEOC,  
14 I'm not talking about environmental clean-up, I'm talking  
15 about sanctions in litigation to protect the court process,  
16 with the exception of one case cited in the *Berg* case.

17 I'm not aware of any cases that go the other way,  
18 but if they're there, I would love for you to present them to  
19 the Court so that I can read both sides of the issue.

20 MR. CHINTELLA: Your Honor, so, if I understand  
21 correctly, you would like us to file a supplemental brief  
22 within 10 days of today, so that would be the 14th, which I  
23 think is next Friday?

24 THE COURT: That is next Friday.

25 MR. CHINTELLA: Okay.



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1 MR. ANDERSON: Your Honor, I apologize for  
2 intruding. Would the Court -- would it make more sense to  
3 the Court to have the Debtor file a brief so that -- because  
4 I know that we have looked into this very issue that the  
5 Court is raising, and --

6 THE COURT: And if you all don't want to file  
7 anything supplemental, that's fine. If you think you've  
8 given me everything that is relevant, then I'm happy to leave  
9 it at that. I'm giving both sides the opportunity, and  
10 particularly I want to give Mr. Chintella the opportunity to  
11 address this particular issue.

12 Now, you may then want to have a reply.

13 MR. ANDERSON: That's what I was thinking, that it  
14 might make more sense, because I know we've -- this is a  
15 discussion that, you know, we had in filing the brief that we  
16 filed.

17 But, and there's certainly -- I guess there's  
18 another layer of research we can lay on top of what we've  
19 already done and look to see if there is some authority that  
20 would be helpful to the Court.

21 But I was thinking that perhaps, because Mr.  
22 Chintella had said that, you know, he thinks he's got some  
23 cases, perhaps we can, you know, flush those out and give us  
24 a chance to respond.

25 So maybe five days for him and five days later for



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1 us, or something like that, would be useful.

2 MR. CHINTELLA: Your Honor, I'm not willing to  
3 agree to that, but I'll do what the Court orders. I'm not  
4 going to give him [indecipherable - not near microphone]. If  
5 they want to frame it that way and [indecipherable] I'd be  
6 okay with that, Your Honor. Both parties due in 10 days.

7 MR. ANDERSON: You know, I really don't care what  
8 we do, I'm just trying to make it easy for everybody. It  
9 doesn't make a bit of difference to me.

10 THE COURT: And I appreciate that. Both sides  
11 have the opportunity to brief that issue, whether you do it  
12 is up to both sides. I told you where my thinking is. You  
13 kind of generally know what the Court thinks at this point.

14 I want to give both sides the opportunity to  
15 present me to authority that I haven't yet seen, or perhaps  
16 there are arguments that I haven't considered in conjunction  
17 with how do you distinguish this particular type of  
18 sanctions. I'm going to give you both that opportunity, 10  
19 days.

20 If one side doesn't file anything, I'll rely on  
21 what has already been filed.

22 MR. ANDERSON: So, Your Honor, it will be due  
23 Friday the 14th?

24 THE COURT: Yes.

25 MR. ANDERSON: Okay. All right. Do you want us



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1 to have it set back down for another hearing?

2 THE COURT: No, what I want to do is I want to  
3 look at what is submitted in writing, and if I think a  
4 further hearing will be useful, I'll set that.

5 MR. ANDERSON: Since the Court is asking for some  
6 additional briefing in this case, could we ask that any  
7 deadlines be stayed, because Mr. Chintella has also filed a  
8 motion for sanctions for --

9 THE COURT: And there -- generally with the --

10 MR. CHINTELLA: [indecipherable - not near  
11 microphone].

12 THE COURT: Generally with the motion for  
13 sanctions in the main case, unless the Local Rules  
14 specifically require a reply, we generally don't require a  
15 written reply. But it does not make sense to deal with that  
16 until after this threshold issue is addressed, because if it  
17 is a (b)(4) issue, I think that resolves the motion for  
18 sanctions.

19 MR. CHINTELLA: Your Honor as far as the  
20 [indecipherable] hearing, we would ask that -- can I ask that  
21 that would be stayed. Any initiation of -- my thought behind  
22 that is that it may form or, I guess, alter Comcast's cases  
23 that there is, in fact, a viable motion of the rule for  
24 violation of stay potentially going out there, I mean, in  
25 that case. It was sort of a -- I believe that is transpired



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1 in an order, just to save everybody some time and --  
2 especially, I guess, because, you know, every time I'm  
3 working on something in this matter, is time that we  
4 [indecipherable].

5 THE COURT: Has an answer been filed in that?

6 MR. CHINTELLA: I filed a motion to dismiss.

7 THE COURT: Okay.

8 MR. CHINTELLA: You know, they are, I guess,  
9 obligated to respond, so I'm okay with granting an extension  
10 of that until we resolve this.

11 But I don't know, maybe Comcast can say whether  
12 it's still proceeding with that despite a viable motion for  
13 stay violation.

14 THE COURT: So, isn't the adversary a  
15 dischargeability action?

16 MR. ANDERSON: Yes, Your Honor, it is.

17 THE COURT: Okay. And is it based on -- is it to  
18 preserve any rights with respect to the 1927 motion? Is that  
19 what it was? Frankly, I have not read the complaint. I know  
20 there is an adversary, but I have not read the complaint.

21 MR. ANDERSON: Yes, Your Honor, to the extent that  
22 we received any award, the way we read the Rules, we had to  
23 go ahead and file the dischargeability sooner rather than  
24 later because of where things are in the bankruptcy.

25 THE COURT: Right.



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1 MR. ANDERSON: But if that -- if the Court is  
2 going to stay that, because we understand that if Judge  
3 O'Kelley were to make an award, we'd be back here in front of  
4 Your Honor, we would agree to stay those things.

5 I know that he's filed a motion to dismiss the  
6 non-dischargeability.

7 THE COURT: Okay. And, to me, it makes sense to  
8 stay the matter. First of all, I understand why you filed  
9 when you filed, because there is a deadline.

10 MR. ANDERSON: Yes, Your Honor.

11 THE COURT: But, at this point, there hasn't been  
12 any adjudication. There are other moving parts, so let's do  
13 this: Let's stay the -- any proceedings in the adversary  
14 proceeding, which would include any requirement to respond to  
15 the motion to dismiss until -- I'm thinking 30 days after  
16 ruling on the motion for relief and the motion -- the willful  
17 violation motion.

18 Does that all sound workable to everybody?

19 MR. CHINTELLA: Yes, Your Honor.

20 MR. ANDERSON: Yes, Your Honor. And then in the  
21 actual bankruptcy case?

22 THE COURT: That's the willful violation motion,  
23 is the sanctions motion. And that, I believe, is going to  
24 rise or fall on the ruling that is currently under  
25 consideration.



1 MR. ANDERSON: It could fall, but whether it  
2 rises, I guess that --

3 THE COURT: That would be correct. Yes. Mr.  
4 Chintella, did you want to say something?

5 MR. CHINTELLA: Just that I hope that I won't  
6 fall. I think that's just the way I would respond to that.

7 I think I'm more than happy to -- so far as the  
8 three motions, just strictly to the issue, that one issue  
9 which I also will give additional information as part of the  
10 annulment. How would the Court like me to visit that?  
11 That's two issues, I guess.

12 THE COURT: Right. I think that I really just  
13 want you to focus on the issue of the nature of the sanction  
14 and how it would be distinguishable.

15 And if I then end up agreeing with you, if we need  
16 to come back and take evidence as to whether an annulment is  
17 appropriate or not, we can get there. But I think this is  
18 really the threshold legal issue, in my mind, and it doesn't  
19 make sense to have an evidentiary hearing if it's going to be  
20 resolved on a legal issue.

21 MR. CHINTELLA: Fine.

22 THE COURT: All right, so we will enter an order  
23 in the adversary staying the proceeding until 30 days after a  
24 ruling on this motion and the sanctions motion.

25 And you all will present within 10 days, by March



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1 14th, supplemental briefing, if you choose. There is no  
2 requirement that you do that.

3 MR. CHINTELLA: Your Honor?

4 THE COURT: Yes, sir.

5 MR. CHINTELLA: Are you referring to Judge  
6 O'Kelley's potential sanctions?

7 THE COURT: No, I'm referring to the motion for  
8 sanctions for willful violation of the stay.

9 MR. CHINTELLA: So both of those are stayed, that  
10 and the adversary?

11 THE COURT: Yes. Well, yes. That way there is no  
12 response necessary for them, and we need to deal with this  
13 issue first. And then to the extent that there are matters  
14 that need to be dealt with on the willful violation for stay  
15 motion, we'll deal with it after a ruling on this matter.

16 So we're going to stay any response time until 30  
17 days after the Court rules on this matter.

18 MR. ANDERSON: Thank you, Your Honor.

19 THE COURT: All right, thank you all.

20 THE COURT CLERK: All rise, please. This  
21 concludes the afternoon calendar.

22 (Time noted: 3:35 p.m.)  
23  
24  
25



CERTIFICATE

I, RANDEL RAISON, certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter, to the best of my ability.

*Randel Raison*

3/11/14

Randel Raison

Date



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